



February 24, 2009

Co-chair Thomas Colapietro
Co-chair Jim Shapiro

General Law Committee:

Thank you for the opportunity to speak before this committee regarding H.B. #6470, AN ACT CONCERNING RESIDENTIAL RETAIL HEATING OIL AND PROPANE CONTRACTS.

My name is Joseph McDonald. I am speaking on behalf of Petro, where I am the Vice President of Sales & Marketing. Petro serves over 24,000 residents of CT and employs approximately 184 employees in the state.

The Connecticut Legislature adopted the Connecticut version of the Uniform Electronic Transactions Act in 2002. By its adoption, the Legislature approved the use of electronic signatures and records. In 2000, Congress passed the federal ESIGN law. Both the Connecticut form of UETA and the federal ESIGN Act are technology neutral, in that they do not mandate any particular form of technology to create the electronic signature or record.

Connecticut's UETA and federal ESIGN both permit electronic signatures and records to create binding obligations. Because of the requirements of federal ESIGN, it is important for the Connecticut statute to specifically permit telephone recordings between a representative and customer.

Connecticut has a statute, which requires that home heating oil retailers disclose IN WRITING to the customer the terms and conditions of a protected price contract for heating oil before the customer accepts the contract.

Connecticut also has a statute requiring that retail dealers have a surety bond, futures contract or other hedging mechanism for any protected price agreements to insure they are able to meet the pricing commitments to customers.

This bill seeks to recognize that "writing" can be an electronic writing. This amendment simply incorporates Connecticut UETA into the statute on the home heating oil, protected price written disclosures requirement. This amendment makes clear that the terms and conditions of a protected price agreement can be made to a customer in an electronic

Requested changes to H.B. #6470, AN ACT CONCERNING RESIDENTIAL RETAIL HEATING OIL AND PROPANE CONTRACTS.

Section (d)(1) of the legislation has the effect of treating prospective customers and renewing protected price customers differently. We ask that subsection (d)(1) be deleted from the bill. As currently drafted, the subsection requires that a dealer provide to the consumer prior to any telephonic communication all terms and conditions of the contract, in writing, except for the contract duration, the unit price and the maximum number of units covered by the contract. For this reason, a company can enter into a telephonic agreement only with existing customers who are renewing a protected price agreement. A company cannot offer a prospective customer a protected price agreement by telephone, as it is not able to meet the requirements of (d)(1). Similarly, an existing customer who is interested in a protected price agreement for the first time is also unable to enter into a protected price agreement by telephone, as the company cannot provide the terms required by (d)(1) in advance of the call. The legislature should not treat customers differently and therefore, section (d)(1) should be deleted.

Section (d)(2), (which would now become (d)(1)), should read as follows: (1) employs an interactive voice response system, a voice recording system or similar technology". This change would allow for the recording of two human beings interacting and agreeing on a contract, not just a human and an IVR (which is a computerized database).

Section (d)(4), (which would now become (d)(3)) should have the following language deleted: *"with the written stipulation that the consumer is bound by such terms and conditions unless the agreement is rescinded by the consumer, in writing, not later than three business days after receipt of such letter by said consumer"*. Making the contract valid unless rescinded by the consumer, in writing, not later than three business days after receipt of such letter by said consumer creates uncertainty for the dealer and the customer. As a dealer, it is not clear when we should secure the product for our customer – should we secure it on the day of the telephone recording, or only after the three day period has expired without a rescission? The dealer is bound on the day of the telephone recording, and also bound to secure the product as of that date; why should the customer not also be bound as of that same date?